

Application Serial No. 10/561,353  
Reply to Office Action of February 18, 2009

PATENT  
Docket: CU-4615

### REMARKS

In the Office Action, dated February 18, 2009, the Examiner states that Claims 5-11 are pending and rejected. By the present Amendment, Applicant amends the claims.

#### Rejections under 35 U.S.C. §103(a)

Claims 5, 7 and 9-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shinoki et al. (JP 11-105067) in view of Okabe et al. (US 5,257,709) and Uchida et al. (US 4,909,411). Claim 6 is rejected in further view of Tachi et al. (US 2002/0150706). Claim 8 is rejected in further view of Paciorek et al. (US 3,685,734). Applicant respectfully disagrees with and traverses these rejections.

Page 5 of the Office Action asserts that "the Shinoki and Okabe combination does not expressly disclose the remaining features of amended claim 5; however the patent to Uchida - an injection molded container using metal molds - teaches a male mold (Uchida, 17) and female mold (Uchida, 15) in which the flange width y' of the flange part formed by the female mold is smaller than the flange width y of the flange part formed by the male mold (Uchida, Fig.9), wherein the flange width y' is located at lower side of the flange part and the out end of flange part formed by the female mold, and the flange width y is a width between the inner end of the flange part which is located at lower side of the flange part and the outer end of flange part formed by the male mold (Uchida, Fig.9)."

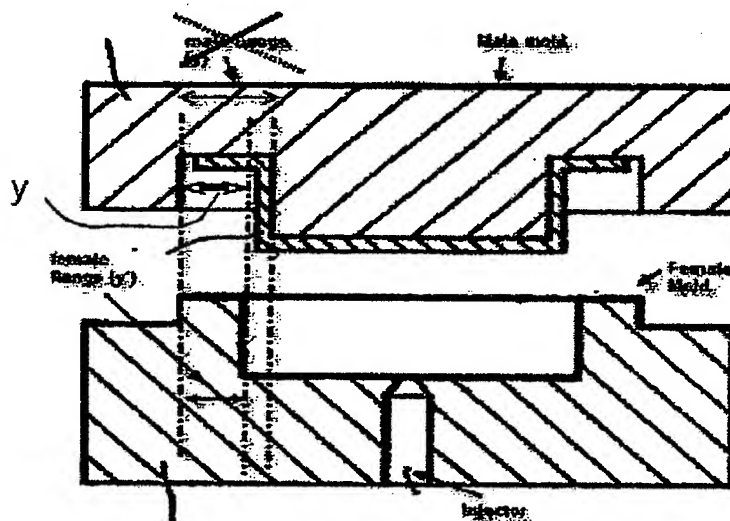
However, Applicant respectfully asserts that Uchinda does not teach or suggest the foregoing.

In the figure shown at page 6 of the Office Action, Applicant respectfully asserts that the width "y" for male flange is not correct. It does not match up to the above definition (claimed in Claim 5) for the width "y". Namely, the width y is a width between the inner end of the flange part which is located at lower side of the flange part and the outer end of flange part formed by the male mold. Applicant indicates that the width y is not a width between the inner end of the flange part which is located at upper side of the flange part and the outer end of flange part formed by the male mold. Namely, the same position is used as the inner end of the flange part for defining the flange width y' at the lower side, and as the inner end of the flange part for defining the flange width y at the upper side. (If mutually different positions

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are used for the inner ends of the upper side and lower side respectively as is shown in the Office Action, the width "y" is naturally larger than width "y'" due to the thickness of the container in all embodiments, and thus, such a comparison becomes inappropriate.)



Thus, in Uchida, the true width "y" is equal to the width "y'", is not larger than "y'".

Further, in Uchida, although the injection mold comprises a male mold and a female mold, the male mold and the female mold is not jointed at the flange part. In other words, the faying surface between the male mold and the female mold is not located at a position between the thickness of flange part. When watching the portion for forming the flange part, the female mold of Uchida only defines the lower surface of the flange part by the top surface of the female mold. Remaining surface, namely, side surfaces (thickness) as well as the upper surface of the flange part are defined by the male mold. Thus, the substantially whole of thickness of the flange part is formed only by the male mold.

With respect to the flange part, the female mold of Uchida does not function as a "hollow" or "female," it functions as a "convexity" or "male."

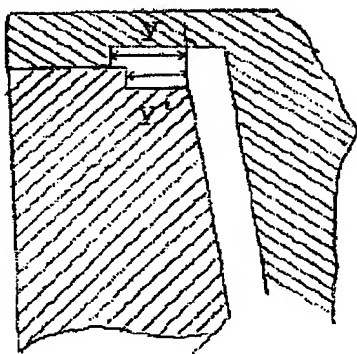
Thus, the mold shown in Uchida is out of the range, which is defined in Claim 5 as "— a female metal mold and a male metal mold were jointed at the flange part —" and "—the outer end of flange part formed by the female mold, —."

On the other hand, in the present invention as defined in Claim 5 and as

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shown in the following figure or Fig. 3 of the present application, the male mold and the female mold are jointed at the flange part, in other words, the faying surface between the male mold and the female mold is located at a position between the thickness of flange part, and the upper part of the flange part is formed by the male mold and the lower part of the flange part is formed by the female mold so that the width  $y'$  is smaller than the width  $y$ .



Regarding the effects derived by such a constitution, please note the specification, for example, at page 16 lowest line to page 17, line 17, "The use in this way of the female mold 2 and the male mold 1 so designed that ———when his or her mouth is brought into direct touch with the flange."

Such effects are not taught or suggested by Uchida as well as Shinoki et al. and Okabe.

To support a *prima facie* case of obviousness, the Office Action must establish "a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference." Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, 72 Fed. Reg. 57,526 (Oct. 10, 2007).

In view of the foregoing structural elements or features present in rejected Claim 5 that are absent from the prior art, Applicant respectfully requests that a *prima facie* case of obviousness cannot be established.

Moreover, since independent Claim 5 is allowable over the prior art, Applicant

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asserts that all claims depending therefrom are allowable for at least the same reasons, as well as for the features that they recite. As such, Applicant respectfully requests withdrawal of the present rejections under 35 U.S.C. §103(a).

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

May 16, 2009  
Date

Respectfully submitted,



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